

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Derrick Polite,

Plaintiff,

-against-

VIP Community Services,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 3/17/2021

1:20-cv-07631 (GBD) (SDA)

AMENDED ORDER OF SERVICE

STEWART D. AARON, United States Magistrate Judge:

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date a complaint is filed, Plaintiff is proceeding IFP and the U.S. Marshals Service sought to serve the summons and Amended Complaint, but they were returned. (*See* ECF No. 15.) The Court therefore extends the time to serve until 90 days after the date of this Order. If the Amended Complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App’x 50, 52 (2d Cir. 2010) (“As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the

Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for Defendant at the following address: VIP Community Services, Attn: Director of Human Services, 770 East 176th Street, Bronx, NY 10460.¹

The Clerk of Court is further instructed to issue an amended summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service of the Amended Complaint upon Defendant.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is respectfully requested to issue an amended summons and complete the USM-285 form with the address for VIP Community Services set forth above and deliver all documents necessary to effect service to the U.S. Marshals Service.

¹ The Amended Complaint includes two different addresses for VIP Community Services. (See Am. Compl., ECF No. 8 at 2-3.) The Court previously ordered service on Defendant at one of the addresses listed in the Amended Complaint, but such service was unsuccessful. (See ECF No. 15.) Accordingly, the Court now orders Defendant to be served at the address listed above, which is on page 2 of the Amended Complaint.

The Clerk of Court also is requested to mail a copy of this Order to the *pro se* Plaintiff.

SO ORDERED.

DATED: New York, New York
March 17, 2021

A handwritten signature in black ink, reading "Stewart D. Aaron", is positioned above a horizontal line.

STEWART D. AARON
United States Magistrate Judge